

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BLUEFIELD

RANDAL ADKINS,

Plaintiff,

v.

CIVIL ACTION NO. 1:17-04259

CO JERRY DAVIS et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

Pending before the court is plaintiff's complaint alleging defendants violated his constitutional and civil rights pursuant to 42 U.S.C. § 1983. ECF No. 1. By Standing Order, the matter was referred to United States Magistrate Judge Omar J. Aboulhosn for submission of proposed findings and recommendations ("PF&R") for disposition pursuant to 28 U.S.C. § 636(b)(1)(B). On November 28, 2017, the magistrate judge submitted his PF&R, in which he recommended that the district court (1) deny plaintiff's application to proceed without prepayment of fees and costs (ECF No. 6), (2) dismiss this matter without prejudice due to plaintiff's failure to exhaust his administrative remedies (ECF No. 1), and (3) remove the matter from the court's docket.

In accordance with the provisions of 28 U.S.C. § 636(b), petitioner was allotted fourteen days, plus three mailing days,

in which to file any objections to Magistrate Judge Aboulhosn's Findings and Recommendation. The failure to file such objections constitutes a waiver of the right to a de novo review by this court. Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989).

Plaintiff failed to file any objections to the Magistrate Judge Aboulhosn's Findings and Recommendation within the seventeen-day period.<sup>1</sup> Having reviewed the Findings and Recommendation, the court adopts the findings and recommendation contained therein.

The court hereby **ADOPTS** the factual and legal analysis contained within the PF&R, (ECF No. 7), **DENIES** plaintiff's application to proceed without prepayment of fees and costs, (ECF No. 6), **DISMISSES** this matter without prejudice, (ECF No. 1), and **DIRECTS** the Clerk to remove this case from the court's docket.

The Clerk is further directed to forward a copy of this Memorandum Opinion and Order to counsel of record and plaintiff, pro se.

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<sup>1</sup> Plaintiff did file an Amended Complaint with the court on January 8, 2018, which included no objections to the Proposed Findings and Recommendation. See ECF No. 8. Even if the Amended Complaint did suffice as an objection - and it does not - plaintiff fails to assert that he properly exhausted his administrative remedies. Id. In response, the court directed the Clerk of Court to mail plaintiff a form complaint and a copy of the "Pro Se Handbook." See ECF No. 9.

It is **SO ORDERED** this 4th day of April, 2018.

ENTER:

A handwritten signature in black ink, reading "David A. Faber", is written over a horizontal line.

David A. Faber

Senior United States District Judge